



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,683	07/16/2001	Jamie M. Grooms	197319US/222962US	4376
52727	7590	04/01/2009	EXAMINER	
REGENERATION TECHNOLOGIES, INC. c/o MCANDREWS, HELD & MALLOY 500 WEST MADISON STREET 34TH FLOOR CHICAGO, IL 60661			SNOW, BRUCE EDWARD	
			ART UNIT	PAPER NUMBER
			3738	
			MAIL DATE	DELIVERY MODE
			04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JAMIE M. GROOMS, KEVIN C. CARTER,
TOM SANDER, and DAVID H. DULEBOHN

Application No. 09/905,683
Technology Center 3700

Mailed: March 31, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 22, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER

MISSING CERTIFIED TRANSLATION

The Examiner relied on the foreign reference Siebels in rejecting the claims. A full certified English translation of the above noted foreign reference is not of record in the Image File Wrapper (IFW).

When an Examiner relies on a document “in a language other than English, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added). MPEP §1207.02. Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: (1) a rejection is supported in whole or part by an abstract without reference to the underlying document, . . . ; or (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

The memorandum also states “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added).

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statement (IDS) dated December 3, 2001. There is no indication on the record that the Examiner has considered the *second page* of the above Information Disclosure Statement. MPEP § 609 requires the Examiner to consider any Information Disclosure Statement filed by Applicant if timely submitted. A written communication notifying Appellant of the Examiner's consideration of the above Information Disclosure Statement is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to obtain full certified English language translation of the above noted foreign reference;
- 2) to complete the IFW by having the translation obtained scanned into the IFW file;
- 3) to provide copies of the translations obtained to Appellant(s);
- 4) consider the Information Disclosure Statement filed December 3, 2001; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/eld

REGENERATION TECHNOLOGIES, INC.
c/o MCANDREWS, HELD & MALLOY
500 WEST MADISON STREET
34TH FLOOR
CHICAGO IL 60661